

HOUSE BILL NO. 544

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A BILL FOR AN ACT ENTITLED: "AN ACT STRENGTHENING ENFORCEMENT OF MANDATORY MOTOR
VEHICLE LIABILITY INSURANCE LAWS; CREATING THE UNINSURED MOTORIST IDENTIFICATION
PROGRAM AND PROVIDING FOR A DATABASE; REQUIRING INSURERS TO PROVIDE CERTAIN
INFORMATION TO THE DEPARTMENT OF JUSTICE'S DESIGNATED AGENT; PROVIDING FOR AN
UNINSURED MOTORIST IDENTIFICATION FEE TO FUND THE PROGRAM; PROVIDING GUIDELINES FOR
USE OF DISCLOSED INFORMATION AND PENALTIES FOR IMPROPER DISCLOSURE; PROVIDING A
STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 33-19-104, AND 33-19-306, MCA;
AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 10] may be cited as the "Montana
Uninsured Motorist Compliance Act".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 10], the following
definitions apply:

(1) "Account" means the uninsured motorist identification restricted account created in [section
10].

(2) "Commissioner" means the commissioner of insurance.

(3) "Database" means the uninsured motorist identification database created in [section 3].

(4) "Designated agent" means the party with whom the department contracts under [section 3].

(5) "Department" means the department of justice.

(6) "Program" means the uninsured motorist identification program created in [section 3].

1 NEW SECTION. **Section 3. Creation of program and database -- designated agent to administer**
2 **program -- duties of designated agent.** (1) There is an uninsured motorist identification program. The
3 purpose of the program is to establish an uninsured motorist identification database to verify a motor
4 vehicle owner's compliance with mandatory liability insurance requirements under Title 61, chapter 6, part
5 3, and to assist in reducing the number of uninsured motor vehicles on the highways of the state.

6 (2) The program must be administered by the department with the assistance of a designated
7 agent.

8 (3) The department shall contract, in accordance with Title 18, chapter 4, AND SUBJECT TO
9 SUBSECTION (4), with a designated agent to establish and maintain a database for the purposes of [sections
10 1 through 10].

11 (4) (A) THE DEPARTMENT MAY NOT CONTRACT WITH A DESIGNATED AGENT AS PROVIDED IN SUBSECTION (3)
12 UNLESS AT LEAST TWO RESPONSIBLE AND RESPONSIVE BIDDERS SUBMIT BIDS IN RESPONSE TO THE DEPARTMENT'S REQUEST
13 FOR PROPOSALS OR INVITATION FOR BIDS.

14 (B) THE DEPARTMENT MAY NOT USE THE SOLE SOURCE PROCUREMENT METHOD PROVIDED FOR IN 18-4-306 FOR
15 THE PURPOSES OF THIS PROGRAM.

16 ~~(4)~~(5) The designated agent shall develop and maintain a computer database from the information
17 provided by insurers under [section 5] and by the department under [section 4]. The database must be
18 developed and maintained in accordance with guidelines established by the department and designed to
19 allow state and local law enforcement agencies to efficiently access the database.

20 ~~(5)~~(6) The designated agent shall, at least monthly:

- 21 (a) update the database with the motor vehicle insurance information provided by insurers; and
22 (b) compare all current motor vehicle registrations against the database.

23 ~~(6)~~(7) The designated agent shall archive computer data files at least semiannually for auditing
24 purposes. The designated agent shall provide the department and the legislative auditor access to any
25 records necessary to audit the program and verify billings made by the designated agency and to verify
26 the accuracy of the designated agent's matching of vehicle registration with insurance data.

27
28 NEW SECTION. **Section 4. Department's duties.** (1) The department shall provide the designated
29 agent with a record of all current motor vehicle registrations, EXCLUDING REGISTRATIONS PROVIDED FOR IN
30 61-3-529, 61-3-711 THROUGH 61-3-733, AND 61-3-736 THROUGH 61-3-738, and the name, date of birth,

1 address, and driver's license number of all persons on the driver's license database.

2 (2) The department shall adopt rules to implement [sections 1 through 10], including rules for the
3 use of the database.

4

5 **NEW SECTION.** **Section 5. Insurers' duties -- exemption from liability for negligence.** (1) On or
6 before the 7th day of each calendar month, each insurer that issues a policy that includes motor vehicle
7 liability coverage, uninsured motorist coverage, underinsured motorist coverage, or personal injury
8 coverage under Title 33, chapter 23, part 2, shall provide to the department's designated agent a record
9 of each motor vehicle insurance policy that was issued by the insurer, EXCLUDING ANY POLICY ISSUED FOR A
10 COMMERCIAL MOTOR VEHICLE REGISTERED OR PROPORTIONATELY REGISTERED IN MONTANA OR IN ANY OTHER
11 JURISDICTION, and THAT was in effect during the previous month.

12 (2) The record must include:

13 (a) the name, date of birth, and driver's license number of each insured owner or operator and the
14 address of the named insured;

15 (b) the make, year, and vehicle identification number of each insured vehicle; and

16 (c) the policy number, effective date, and expiration date of each policy.

17 (3) Each insurer shall provide the information in an electronic or other format acceptable to the
18 department's designated agent.

19 (4) The commissioner may assess against an insurer a civil penalty of up to \$250 per day for each
20 day that an insurer fails to comply with this section. An insurer is entitled to notice and a hearing before
21 the penalty is assessed, and if the insurer shows that the failure to comply with this section was
22 inadvertent, accidental, or the result of excusable neglect, the commissioner may not impose the civil
23 penalty.

24 (5) Except for gross negligence, an insurer is not liable in negligence for any damages resulting
25 from providing the designated agent with information as required by this section.

26

27 **NEW SECTION.** **Section 6. Uninsured motorist identification fee.** (1) Except as provided in
28 subsection (2), an uninsured motorist identification fee of \$1 must be assessed on the registration and
29 reregistration of each motor vehicle subject to registration or reregistration under Title 61, chapter 3.

30 (2) A motor vehicle that is owned or leased by the United States or a state, county, or city is

1 exempt from the fee assessed by this section.

2 (3) The uninsured motorist identification fee must be collected by the county treasurer and
3 forwarded to the state treasurer for deposit in the uninsured motorist identification restricted account
4 established in [section 10].

5

6 **NEW SECTION. Section 7. Uninsured vehicles -- providing proof of insurance.** (1) If the comparison
7 made under [section 3] shows that a motor vehicle is not insured for ~~3~~ 2 consecutive months, the
8 designated agent shall provide notice to the owner of the motor vehicle that the owner has 15 days to
9 provide:

10 (a) proof of liability insurance, a certificate of self-insurance, or an indemnity bond as required by
11 61-6-301; or

12 (b) proof of exemption from the liability insurance requirement under 61-6-303.

13 (2) If the owner of a motor vehicle fails to provide satisfactory proof as required by subsection
14 (1), the designated agent shall:

15 (a) note the owner's failure to respond to the first notice and the date of the first notice in the
16 database; and

17 (b) provide a second notice to the owner of the motor vehicle advising that if the proof required
18 by subsection (1) is not provided by the owner within 10 days, the vehicle's registration will be subject
19 to suspension by the department.

20 (3) If the owner of a motor vehicle fails to provide the proof required by subsection (1) within the
21 time specified in the second notice, the designated agent shall:

22 (a) note the owner's failure to respond to the second notice and the date of the second notice in
23 the database; and

24 (b) report the owner's noncompliance and relevant vehicle information to the department for
25 suspension action under [section 8].

26

27 **NEW SECTION. Section 8. Suspension of vehicle registration.** (1) Upon receipt of notice from the
28 designated agent that the owner of a vehicle has failed to provide satisfactory proof of liability insurance
29 or exemption after two notices have been given, the department shall:

30 (a) suspend the registration of the vehicle for which the owner failed to provide proof; and

(b) direct the designated agent to send notice of the suspension to the owner.

(2) A criminal penalty may also be imposed under Title 61, chapter 6, part 3.

NEW SECTION. Section 9. Use and confidentiality of database information -- exemption from liability for negligence. (1) Information in the database established under [section 3] provided by a person to the designated agent is considered to be the property of the person providing the information. The provisions of Title 2, chapter 6, parts 1 and 2, do not apply to the information, and the information may not be disclosed by the designated agent or the department, except as provided in subsection (2).

(2) For the purposes of investigating, litigating, or enforcing the mandatory vehicle liability insurance requirements of Title 61, chapter 6, part 3, the designated agent shall:

(a) verify a vehicle's insurance status to law enforcement agencies, courts, and the department;

(b) issue to any state or local government agency or court a certificate documenting the insurance status, according to the database, of a specific individual or motor vehicle for the time period designated by the government agency or court; and

(c) disclose the insurance status of a vehicle and personal information identifying the vehicle owner to a peace officer acting in the officer's official capacity to enforce vehicle registration, insurance, or traffic control laws.

(3) A CERTIFICATE OR ELECTRONIC REPORT FROM THE DESIGNATED AGENT DOCUMENTING OR VERIFYING THE INSURANCE STATUS OF A SPECIFIC INDIVIDUAL OR MOTOR VEHICLE SUPERSEDES AN INSURANCE CARD ISSUED AT LEAST 15 DAYS BEFORE THE REPORT.

~~(3)~~**(4)** A person who knowingly releases or discloses information from the database for a purpose or to a person or entity other than as authorized in subsection (2) is guilty of a criminal offense and upon conviction may be fined an amount not to exceed \$50,000, incarcerated for a period not to exceed 10 years, or both.

NEW SECTION. Section 10. Uninsured motorist identification restricted account -- statutory appropriation. (1) There is an uninsured motorist identification restricted account in the state special revenue fund provided for in 17-2-102.

(2) Fees received by the state treasurer pursuant to [section 6] must be deposited in the account.

(3) For the period beginning January 1, 2002, and ending June 30, 2003, there is statutorily

appropriated, as provided in 17-7-502, from the uninsured motorist identification restricted account to the department of justice the amount of \$1,325,000 to be used to administer [sections 1 through 10]. For fiscal year beginning July 1, 2003, and for each fiscal year thereafter, there is statutorily appropriated, as provided in 17-7-502, from the uninsured motorist identification restricted account to the department of justice the amount of \$850,000 to be used to administer [sections 1 through 10].

Section 11. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-31-702; 15-34-115; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; [section 10]; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-222; 80-4-416; 80-11-518; 81-5-111; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to

1 sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
2 supplemental benefit; pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1,
3 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of
4 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability
5 is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1,
6 2014; and pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710
7 terminates June 30, 2005.)"

8
9 **Section 12.** Section 33-19-104, MCA, is amended to read:

10 **"33-19-104. Definitions.** As used in this chapter, the following definitions apply:

11 (1) (a) "Adverse underwriting decision" means any of the following actions with respect to
12 insurance transactions involving insurance coverage that are individually underwritten:

13 (i) a declination of insurance coverage;

14 (ii) a termination of insurance coverage;

15 (iii) failure of an insurance producer to apply for insurance coverage with a specific insurance
16 institution that the insurance producer represents and that is requested by an applicant;

17 (iv) in the case of a property or casualty insurance coverage:

18 (A) placement by an insurance institution or insurance producer of a risk with a residual market
19 mechanism, an unauthorized insurer, or an insurance institution that specializes in substandard risks; or

20 (B) the charging of a higher rate on the basis of information that differs from that which the
21 applicant or policyholder furnished;

22 (v) in the case of a life, health, or disability insurance coverage, an offer to insure at higher than
23 standard rates.

24 (b) The following actions are not adverse underwriting decisions, but the insurance institution or
25 insurance producer responsible for their occurrence shall nevertheless provide the applicant or policyholder
26 with the specific reason or reasons for their occurrence:

27 (i) the termination of an individual policy form on a class or statewide basis;

28 (ii) a declination of insurance coverage solely because the coverage is not available on a class or
29 statewide basis; or

30 (iii) the rescission of a policy.

(2) "Affiliate" or "affiliated" means a person who directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(3) "Applicant" means a person who seeks to contract for insurance coverage other than a person seeking group insurance that is not individually underwritten.

(4) "Consumer report" means any written, oral, or other communication of information bearing on a natural person's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used in connection with an insurance transaction.

(5) "Consumer reporting agency" means a person who:

(a) regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a monetary fee;

(b) obtains information primarily from sources other than insurance institutions; and

(c) furnishes consumer reports to other persons.

(6) "Control", including the terms "controlled by" or "under common control with", means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

(7) "Declination of insurance coverage" means a denial, in whole or in part, by an insurance institution or insurance producer of requested insurance coverage.

(8) "Individual" means a natural person who:

(a) regarding property or casualty insurance, is a past, present, or proposed named insured or certificate holder;

(b) regarding life, health, or disability insurance, is a past, present, or proposed principal insured or certificate holder;

(c) is a past, present, or proposed policyowner;

(d) is a past or present applicant;

(e) is a past or present claimant; or

(f) derived, derives, or is proposed to derive insurance coverage under an insurance policy or certificate subject to this chapter.

(9) "Institutional source" means a person or governmental entity that provides information about an individual to an insurance producer, insurance institution, or insurance-support organization, other than:

(a) an insurance producer;

(b) the individual who is the subject of the information; or

(c) a natural person acting in a personal capacity rather than a business or professional capacity.

(10) "Insurance function" means claims administration, claims adjustment and management, fraud investigation, underwriting, loss control, ratemaking functions, reinsurance, risk management, case management, disease management, quality assessment, quality improvement, provider credentialing verification, reporting under [section 5], utilization review, peer review activities, grievance procedures, and internal administration of compliance and policyholder service functions.

(11) (a) "Insurance institution" means a corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society, or other person engaged in the business of insurance, including health maintenance organizations, and health service corporations as defined in 33-30-101.

(b) Insurance institution does not include insurance producers or insurance-support organizations.

(12) "Insurance producer" means an insurance producer as defined in 33-17-102 and 33-30-311.

(13) (a) "Insurance-support organization" means a person who assembles or collects information about natural persons for the purpose of providing the information to an insurance institution or insurance producer for insurance transactions, including:

(i) the furnishing of consumer reports or investigative consumer reports to an insurance institution or insurance producer for use in connection with an insurance transaction; or

(ii) the collection of personal information from insurance institutions, insurance producers, or other insurance-support organizations for the purpose of detecting or preventing fraud, material misrepresentation, or material nondisclosure in connection with insurance underwriting or insurance claim activity.

(b) The following persons are not insurance-support organizations for purposes of this chapter: insurance producers, government institutions, medical care institutions, and medical professionals.

(14) "Insurance transaction" means a transaction involving insurance primarily for personal, family, or household needs, rather than for business or professional needs, that entails:

(a) the determination of an individual's eligibility for an insurance coverage, benefit, or payment;

or

(b) the servicing of an insurance application, policy, contract, or certificate.

(15) "Investigative consumer report" means a consumer report or portion of a consumer report containing information about a natural person's character, general reputation, personal characteristics, or mode of living obtained through personal interviews with the person's neighbors, friends, associates, acquaintances, or others who may have knowledge concerning this type of information.

(16) "Medical care institution" means a facility or institution that is licensed to provide health care services to natural persons, including but not limited to health maintenance organizations, home health agencies, hospitals, medical clinics, public health agencies, rehabilitation agencies, and skilled nursing facilities.

(17) "Medical professional" means a person who is licensed or certified to provide health care services to natural persons, including but not limited to a chiropractor, clinical dietitian, clinical psychologist, dentist, nurse, occupational therapist, optometrist, pharmacist, physical therapist, physician, podiatrist, psychiatric social worker, or speech-language pathologist.

(18) "Medical record information" means personal information that:

(a) relates to an individual's physical or mental condition, medical history, medical claims history, or medical treatment; and

(b) is obtained from a medical professional or medical care institution, from the individual, or from the individual's spouse, parent, or legal guardian.

(19) "Person" means a natural person, corporation, association, partnership, or other legal entity.

(20) "Personal information" means any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics. Personal information includes an individual's name and address and medical record information but does not include privileged information.

(21) "Policyholder" means a person who:

(a) in the case of individual property or casualty insurance, is a present named insured;

(b) in the case of individual life, health, or disability insurance, is a present policyowner; or

(c) in the case of group insurance that is individually underwritten, is a present group certificate holder.

(22) "Pretext interview" means an interview during which a person, in an attempt to obtain

1 information about a natural person, performs one or more of the following acts:

2 (a) pretends to be someone else;

3 (b) pretends to represent a person not in fact being represented;

4 (c) misrepresents the true purpose of the interview; or

5 (d) refuses to provide identification upon request.

6 (23) "Privileged information" means any individually identifiable information that:

7 (a) relates to a civil or criminal proceeding involving an individual; and

8 (b) is collected in connection with or in reasonable anticipation of a claim for insurance benefits
9 or civil or criminal proceeding involving an individual. Information otherwise meeting the requirements of
10 privileged information under this subsection is considered personal information under this chapter if it is
11 disclosed in violation of 33-19-306.

12 (24) "Residual market mechanism" means an association, organization, or other entity defined or
13 described in 61-6-144.

14 (25) (a) "Separate, written authorization" means an individual's written authorization that is:

15 (i) given to the recipient of personal or privileged information that has been disclosed pursuant to
16 33-19-306(3) through (17); and

17 (ii) separate from any written authorization obtained by the disclosing insurance institution,
18 insurance producer, or insurance-support organization pursuant to 33-19-204.

19 (b) The term does not include the insurance institution, insurance producer, or insurance-support
20 organization that discloses personal or privileged information pursuant to 33-19-306(3) through (17).

21 (26) "Termination of insurance coverage" or "termination of an insurance policy" means either a
22 cancellation or nonrenewal of an insurance policy, in whole or in part, for any reason other than the failure
23 to pay a premium as required by the policy.

24 (27) "Unauthorized insurer" means an insurance institution that has not been granted a certificate
25 of authority by the commissioner to transact the business of insurance in this state."

26

27 **Section 13.** Section 33-19-306, MCA, is amended to read:

28 **"33-19-306. Disclosure limitations and conditions.** (1) Except as provided in this section, an
29 insurance institution, insurance producer, or insurance-support organization may not disclose any personal
30 or privileged information about an individual collected or received in connection with an insurance

1 transaction.

2 (2) Disclosure may be made with the written authorization of the individual but:

3 (a) if the authorization is submitted by another insurance institution, insurance producer, or
4 insurance-support organization, the authorization must meet the requirements of 33-19-204; or

5 (b) if the authorization is submitted by a person other than an insurance institution, insurance
6 producer, or insurance-support organization, the authorization must be:

7 (i) dated;

8 (ii) signed by the individual;

9 (iii) sufficient to identify the nature of the information to be disclosed and the person to whom the
10 information is to be disclosed; and

11 (iv) obtained 1 year or less prior to the date a disclosure is sought pursuant to this subsection.

12 (3) Disclosure may be made to a person other than an insurance institution, insurance producer,
13 or insurance-support organization, provided that the disclosure is limited to that which is reasonably
14 necessary:

15 (a) to enable the person to perform an insurance function for the disclosing insurance institution,
16 insurance producer, or insurance-support organization and the person agrees not to further disclose the
17 information without the individual's separate, written authorization; or

18 (b) to enable the person that has agreed not to further disclose the information without the
19 individual's separate, written authorization to provide information to the disclosing insurance institution,
20 insurance producer, or insurance-support organization for the purpose of:

21 (i) determining an individual's eligibility for an insurance benefit or payment; or

22 (ii) detecting or preventing criminal activity, fraud, material misrepresentation, or material
23 nondisclosure in connection with an insurance transaction.

24 (4) Disclosure may be made to an insurance institution, insurance producer, insurance-support
25 organization, or self-insurer that has agreed not to further disclose the information without the individual's
26 separate, written authorization if the information disclosed is limited to that which is reasonably necessary:

27 (a) to detect or prevent criminal activity, fraud, material misrepresentation, or material
28 nondisclosure in connection with insurance transactions; or

29 (b) for either the disclosing or receiving insurance institution, insurance producer, or
30 insurance-support organization to perform its insurance function in connection with an insurance

1 transaction involving the individual.

2 (5) Disclosure may be made to a medical care institution or medical professional of that
3 information reasonably necessary for the following purposes:

4 (a) verifying insurance coverage or benefits;

5 (b) informing an individual of a medical problem of which the individual may not be aware; or

6 (c) conducting an operations or services audit.

7 (6) Disclosure may be made to an insurance regulatory authority that agrees not to further disclose
8 the information without the individual's separate, written authorization.

9 (7) Disclosure may be made to a law enforcement or other government authority:

10 (a) to protect the interests of the insurance institution, insurance producer, or insurance-support
11 organization in preventing or prosecuting the perpetration of fraud upon it; or

12 (b) if the insurance institution, insurance producer, or insurance-support organization reasonably
13 believes that illegal activities have been conducted by the individual.

14 (8) Disclosure that is limited to that which is reasonably necessary may be made as otherwise
15 permitted or required by law.

16 (9) Disclosure that is limited to that which is reasonably necessary may be made in response to
17 a facially valid administrative or judicial order, including a search warrant or subpoena.

18 (10) (a) Except as provided in subsection (10)(b), disclosure that is limited to that which is
19 reasonably necessary may be made for the purpose of conducting actuarial or research studies, provided
20 that:

21 (i) no individual is identified in any actuarial or research report;

22 (ii) materials allowing the individual to be identified are returned or destroyed as soon as they are
23 no longer needed; and

24 (iii) the actuarial or research organization agrees not to further disclose the information without the
25 individual's separate, written authorization.

26 (b) Disclosure of information may be made for:

27 (i) health research that is subject to the approval of an institutional review board and the
28 requirements of federal law and regulations governing biomedical research; or

29 (ii) epidemiological or drug therapy outcomes research that requires information that has been made
30 anonymous to protect the identity of the patient through coding or encryption.

(11) Disclosure may be made to a party or a representative of a party to a proposed or consummated sale, transfer, merger, or consolidation of all or part of the business of the insurance institution, insurance producer, or insurance-support organization, if:

(a) prior to the consummation of the sale, transfer, merger, or consolidation only information is disclosed that is reasonably necessary to enable the recipient to make business decisions about the purchase, transfer, merger, or consolidation; and

(b) the recipient agrees not to further disclose the information without the individual's separate, written authorization.

(12) (a) Disclosure that is limited to that which is reasonably necessary may be made to any affiliate whose only use of the information will be in connection with an audit of the insurance institution or insurance producer if the affiliate agrees not to disclose the information for any other purpose or to unaffiliated persons.

(b) Disclosure of personal information that is limited to an individual's name, age, sex, family composition, address, telephone number, occupation, and avocations may be made to any affiliate whose only use of the information is in connection with the marketing of insurance or financial products if the affiliate agrees not to disclose the information for any other purpose or to unaffiliated persons.

(13) Except for medical record information, disclosure may be made by a consumer reporting agency to a person other than an insurance institution or insurance producer.

(14) Disclosure may be made to a group policyholder for the purpose of reporting claims experience or conducting an audit of the insurance institution's or insurance producer's operations or services if the information disclosed is reasonably necessary for the group policyholder to conduct the review or audit and the group policyholder agrees not to further disclose the information without the individual's separate, written authorization.

(15) Disclosure that is limited to that which is reasonably necessary may be made to a professional peer review organization for the purpose of reviewing the service or conduct of a medical care institution or medical professional if the professional peer review organization agrees not to further disclose the information without the individual's separate, written authorization.

(16) Disclosure that is limited to that which is reasonably necessary may be made to a governmental authority as required by federal or state law or for the purpose of determining the individual's eligibility for health benefits for which the governmental authority may be liable.

(17) Disclosure that is limited to that which is reasonably necessary may be made to a certificate holder or policyholder for the purpose of providing information regarding the status of an insurance transaction.

(18) The commissioner may, after notice and hearing, adopt rules to carry out the provisions of this section. The rules may not define the recordkeeping requirements regarding authorized disclosures of personal or privileged information pursuant to subsections (2) through (17) but may define the requirements of any agreement obtained by an insurance institution, insurance producer, or insurance-support organization regarding disclosures of personal or privileged information.

(19) Disclosure may be made as provided in [section 5]."

NEW SECTION. **Section 14. Codification instruction.** [Sections 1 through 10] are intended to be codified as an integral part of Title 61, chapter 6, and the provisions of Title 61 apply to [sections 1 through 10].

NEW SECTION. **Section 15. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective January 1, 2002.

(2) [Sections 3(3), 3(4), and 4(2) and this section] are effective on passage and approval.

NEW SECTION. **Section 16. Termination.** [This act] terminates January 1, 2006.

- END -